IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 12TH SEPTEMBER 2007 / 21ST BHADRA 1929

WP(C).No. 27074 of 2007(S)

OA.559/2006 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONERS:
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1. T.A.SHALLTEN, AGED 35 YEARS,
S/O AUGUSTINE, THANDASSERY HOUSE,
SOUTH CHITTOOR, KOCHI-27.

2. K.G.JOBY THOMAS, KALATHIL HOUSE,
PUTHUVYPE P.O., KOCHI-682508.

3. ANISH KUMAR T.U., THONIPARAMBIL HOUSE,
KOCHI-682034.

4. C.V.PRAMOD KUMAR, S/O LATE SRI.
VISWAMBARAN, CHAKKALAKKAL HOUSE,
VALLARPADAM P.O., KOCHI 31.

5. K.D.JIPSON, KALATHITHARA HOUSE,
NEAR GOVT. HOSPITAL, NARAKKAL P.O - 682505.

BY ADV. SRI.K.RAMAKUMAR
SRI.R.JAYACHANDRAN

RESPONDENTS:
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1. THE FLAG OFFICER,
COMMANDING-IN-CHIEF, HEAD QUARTERS,
SOUTHERN NAVAL COMMAND, KOCHI-682004.

2. COMMODORE SUPERINTENDENT, PERSONAL AND
ADMINISTRATION, SOUTHERN NAVAL COMMAND,
KOCHI 682 004.

3. THE STAFF OFFICER (CIVILIAN PERSONAL),
SOUTHERN NAVAL COMMAND, KOCHI 682004.

4. THE SENIOR MANAGER (PRODUCTION),

NAVAL SHIP REPAIR YARD, SOUTHERN NAVAL COMMAND,
KOCHI 682004.

5. K.H.SANEESH, KALATHIPARAMBIL,
ELAMKUNNAPUZHA P.O., PUKKAD 682503.

BY SMT.A.SREEKALA – R1 TO R4

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 12/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 27074 OF 2007-S

Dated 12th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners herein were applicants in O.A.No.559/2006 before the Central Administrative Tribunal, Ernakulam Bench. The Tribunal heard the O.A and dismissed it by Ext.P3 judgment. Hence this writ petition, seeking appropriate reliefs.

2. The brief facts of the case are the following: The applicants were candidates who applied for the post of Lascar 1st Class in the Southern Naval Command, Kochi, pursuant to Annexure-A1 notification. As per the said notification, 21 vacancies were notified, of which 4 were reserved for Ex-servicemen. The petitioners were having the prescribed qualification. So, they were considered for selection along with other applicants. The selection was conducted by a three member Board. The selection consisted of a trade test, written test and personal interview. The trade test consisted of swimming test, knot test and safety test. The petitioners came out

successful in the trade test. They were called for the written test. They also successfully cleared the written test. The selection Board fixed a cut off marks of 35% in the trade test and the written test taken together for qualifying for the interview. The petitioners were eligible to be called for the interview. They participated in the personal interview also. Thereafter, a rank-list containing 26 candidates was published and all of them were appointed, as, in the meantime the number of vacancies increased from 21 to 26. A reserve list of 10 candidates was also drawn up and published.

3. The petitioners challenged the selection by filing Ext.P1 O.A on various grounds. They said that it was vitiated by favouritism. The selection process was only a ruse to appoint the relatives of the members of the selection Board. No parameters were fixed to govern the selection process. They were not notified in advance also. The petitioners also allege that the persons who did not qualify in the trade test and written test were also called for interview. Serving personnel were also allowed to participate in the selection process, though they are not ex-servicemen. The respondents filed Ext.P2 reply statement, denying all the allegations made against them. It was contended that the selection was held properly. The trade test and the written test were also held properly. Those who got 35% marks, when the marks in the trade test and the written test were added, were called for the

interview. The petitioners were among those persons who were called for the interview. Since they could not make it to the top of the list, they were not included in the select list. But, one of them was included in the reserve list. The allegations of favouritism etc., were denied by the respondents. The Tribunal called for the records relating to the selection and perused the same and held that the selection was held properly and the petitioners could not get appointment for the reason that they could not make it to the top of the list. The Tribunal also took the view that the petitioners who participated in the selection process with open eyes cannot be allowed to turn round and challenge the selection process once they failed to find a place in the merit list. The petitioners attack Ext.P3 order, by which the O.A was dismissed.

4. Mr.K.Ramakumar, learned counsel appearing for the writ petitioners submitted that the selection was vitiated for not fixing the parameters for the selection in advance and for not notifying the same. The fixation of cut off marks for a selection is also not impermissible, in view of the decisions of the Apex Court and this Court, it is submitted. We notice that the selection consisted of a trade test, written test and personal interview. For the said three components in the selection process, separate marks were prescribed. Those who got 35% marks in the trade test and the

written test taken together were called for the interview. The said fixation of cut off marks has not in any way prejudiced the writ petitioners, as all of them were having the prescribed cut off marks and therefore, they were called for the interview. But, the learned counsel for the petitioners contended that there was fixation of cut off marks for the interview also. From the materials produced in this case, we find that the said contention is unfounded. If in the interview also a cut off marks was fixed and only those who got the cut off mark were appointed and some of the vacancies are remaining unfilled, then the selection may be vitiated. In this case no such contingency arose. Out of the 97 candidates interviewed by the Board, the persons who got the maximum marks were appointed in the 26 vacancies. So, the contention raised by the learned counsel for the petitioners, based on the cut off marks cannot be accepted.

5. We have already noticed that the selection was made, following a proper procedure, which consisted of a trade test, written test and personal interview. Though the said details were not notified, we find that no prejudice has been caused to the petitioners by the same. We also notice that regarding fixation of cut off marks and the resultant prejudice caused to the petitioners, there is no whisper in the O.A.

For all the above reasons, the writ petition fails and it is dismissed.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/